

This letter describes claims for credit in a lemon law situation. See 86 Ill. Adm. Code 130.1501. (This is a GIL).

April 12, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 16, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

On November 29, 2002, I purchased a G.M.C. vehicle from ABC and after an exhausting 10 months of attempted repairs for the same noise problem, G.M.C. agreed to 'repurchase' the vehicle October 29, 2003 in accordance with the 'Illinois Lemon Law.' I agreed to the repurchase amount which did not include the sales tax I had paid to the dealer. I had been told by others that the dealer should refund the sales tax since they were the one who had collected it, not the manufacturer.

On October 29, 2003, G.M.C. sent a two-party check for the agreed amount to the dealer and the 'transaction' was completed by the dealer at 1:00 p.m., the time set by the dealer. The dealer endorsed the check and I received it and then I requested a check for the return of sales tax I had paid. They then said they 'refused' to refund the sales tax saying they had 'no basis upon which to refund the sales tax.' Later the same day, I contacted the Illinois Department of Revenue and was faxed pages 15 and 16 of the department's 'A Guide for Reporting Sales Using Form ST-556, Sales Tax Transaction Return,' which I immediately faxed a copy of to the dealer and they still refused to make the refund. Six hundred forty-five dollars is not a lot of money to some people, but it is a good deal to me and will help pay the sales tax on another vehicle.

Please advise me of what legal recourse I have to recover the \$645 sales tax paid on the vehicle repurchased by the manufacturer at the dealership. Also, is there an alternative way to recover the money?

Your assistance as possible will be greatly appreciated.

The New Vehicle Buyer Protection Act is set forth at 815 ILCS 380/1 et seq. Section 3(a) provides that, “[i]f after a reasonable number of attempts the seller is unable to conform the new vehicle to any of its applicable express warranties, the manufacturer shall either provide the consumer with a new vehicle of like model line, if available, or otherwise a comparable motor vehicle as a replacement, or accept the return of the vehicle from the consumer and refund to the consumer the full purchase price or lease cost of the new vehicle, including all collateral charges, less a reasonable allowance for consumer use of the vehicle....” Section 3(g), provides that “[f]or the purposes of this Act, a manufacturer sells a new vehicle to a consumer when he provides that consumer with a replacement vehicle pursuant to subsection (a).

It appears that the transaction you describe was a lemon law situation. Under this scenario, the Department has no ability to refund the tax directly to you. Section 6 of the Act does allow the dealer to refund the tax to you and then request a refund or claim for credit from the Department. The dealer is not required to refund the money and the Department does not have the authority to force the dealer to do so. This is a private matter between you and the dealer.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department’s Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

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